

RACCOON VALLEY TRANSPORT, INC.
and AUDRIUS LABACIAUSKAS,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

ESPAR INC. and JOHN DOES 1-100,

Defendants.

No.15-cv-01338-JG-JO

TRIPLE CITIES ACQUISITION, LLC d/b/a
Cook Brothers Truck Parts, on behalf of itself
and all others similarly situated,

Plaintiff,

v.

ESPAR INC. and ESPAR PRODUCTS INC.,

Defendants.

No.15-cv-01343-JG-JO

REGIONAL INTERNATIONAL CORP., on
behalf of itself and all others similarly
situated,

Plaintiff,

v.

ESPAR INC. and ESPAR PRODUCTS INC.,

Defendants.

No. 1:15-cv-01798-JG-JO

NATIONAL TRUCKING FINANCIAL
RECLAMATION SERVICES, LLC,
individually and on behalf of all others
similarly situated,

No. 1:15-cv-02310-JG-JO

Plaintiff, v. ESPAR INC., ESPAR NORTH AMERICA, INC., and ESPAR PRODUCTS INC. Defendants.	
TRAILER CRAFT INC., on behalf of itself and all others similarly situated, Plaintiff, v. ESPAR INC., ESPAR PRODUCTS INC., WEBASTO PRODUCTS NORTH AMERICA, INC. AND WEBASTO THERMO & COMFORT NORTH AMERICA INC., Defendants.	No. 15-cv-02411-JG-JO

STATUS REPORT BY PLAINTIFF TRIPLE CITIES ACQUISITION, INC.

In preparation for the Status Conference scheduled for May 22, 2015, Plaintiff Triple Cities Acquisition, LLC d/b/a Cook Brothers Truck Parts (“Triple Cities”) respectfully submits this Status Report regarding pending antitrust actions against Defendant Espar Inc., its affiliated entities (“Espar”), and other Defendants.

I. Introduction

The U.S. Department of Justice filed a Criminal Information against Espar in the District Court for the Eastern District of New York for violating federal antitrust laws by agreeing with one or more of its competitors to fix prices for parking heaters and related products sold in the aftermarket for use in commercial vehicles. Information ¶ 2 (ECF No. 13), *United States v. Espar, Inc.*, No. 1:15-cr-28 (E.D.N.Y. Mar. 12, 2015). The case was assigned to the Honorable

John Gleeson. Espar pleaded guilty and a sentencing hearing is scheduled for June 5, 2015. ECF No. 15, No. 15-cr-28 (E.D.N.Y. Mar. 12, 2015).

After the guilty plea and filing of the Information, purchasers of parking heaters from Espar filed complaints in the Eastern District of New York for violation of federal and state antitrust law, based, *inter alia*, on the conduct identified in the Information. Entities that have asserted direct purchaser claims (“DPPs”) have filed three class action complaints against Espar, and, in one case, against other Defendants, alleging Espar violated federal antitrust laws; Entities that have asserted indirect purchaser claims have filed two class action complaints alleging Espar violated various state antitrust laws. Each complaint makes identical or substantially similar legal and factual allegations. All of the matters are now pending before the District Court Judge John Gleeson and Magistrate Judge James Orenstein.¹

II. Direct Purchaser Plaintiff Actions

A. *Triple Cities Acquisition, LLC d/b/a/ Cook Brothers Truck Parts v. Espar Inc., No. 15-cv-1343 (E.D.N.Y.).*

Plaintiff Triple Cities, which directly purchased parking heaters from Espar, filed the first direct purchaser class action on March 16, 2015. Compl. (ECF No. 1), *Triple Cities*, No. 15-cv-1343 (E.D.N.Y. Mar. 16, 2015). As alleged in the Complaint, on February 11, 2015, DOJ notified Triple Cities that it “is a potential victim of the crime to be charged” against Espar. *Id.* ¶ 73.

¹ See Order, *Triple Cities Acquisition, LLC d/b/a/ Cook Brothers Truck Parts v. Espar Inc.*, No. 15-cv-1343 (E.D.N.Y. Apr. 7, 2015) (reassigning case to Judge Gleeson); Order, *Raccoon Valley Transp., Inc., v. Espar, Inc.*, No. 15-cv-1338 (E.D.N.Y. Mar. 18, 2015) (same); Order, *Nat’l Trucking Fin. Reclamation Srvs., LLC v. Espar, Inc.*, No. 15-cv-2310 (E.D.N.Y. Apr. 23, 2015) (same); Order, *Reg’l Int’l. Corp. v. Espar, Inc.*, No. 15-cv-1798 (E.D.N.Y. Apr. 9, 2015) (same).

The Court granted the Parties' joint motion for an extension of time to June 12, 2015 for Espar's to answer the Complaint. Order (ECF No. 13), No. 15-cv-1343 (E.D.N.Y. Mar. 20, 2015).

B. *National Trucking Financial Reclamation Services, LLC v. Espar, Inc.*, No. 15-cv-2310 (E.D.N.Y.).

Five weeks after Triple Cities filed its Complaint, Plaintiff National Trucking Reclamation Services filed a direct purchaser class action against Espar. *See* Compl. (ECF No. 1) *Nat'l Trucking Reclamation Svcs.*, No. 15-cv-2310 (E.D.N.Y. Apr. 22, 2015). National Trucking is the assignee of the legal interest and claims of a company that purportedly purchased parking heaters sold by Espar. *Id.* ¶ 8.

C. *Trailer Craft Inc. v. Espar Inc.*, No. 15-cv-2411 (E.D.N.Y.).

Six weeks after Triple Cities filed its Complaint, on April 28, 2015, Plaintiff Trailer Craft Inc. filed a direct purchaser class action. Trailer Craft named both Espar and its competitors Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc. as Defendants. *See* Compl. (ECF. No. 1), *Trailer Craft, Inc.* (E.D.N.Y. Apr. 28, 2015).

III. Indirect Purchaser Plaintiff Actions

A. *Raccoon Valley Transp., Inc., v. Espar, Inc.*, No. 15-cv-1338 (E.D.N.Y.).

Plaintiffs Raccoon Valley Transport and Audrias Labaciauskas, which indirectly purchased parking heaters from Espar, filed the first indirect purchaser class action on March 16, 2015. *See* Compl. (ECF No. 1), *Raccoon Valley*, No. 15-cv-1338 (E.D.N.Y. Mar. 16, 2015).

The Court granted the parties joint motion for an extension of time for Defendant Espar's answer to 45 days after the filing of Raccoon Valley's anticipated amended consolidated indirect purchasers' complaint, and likewise ordered a comparable deadline in the *Regional International* matter. *See* Order, *Raccoon Valley*, No. 15-cv-1338 (E.D.N.Y. Apr. 8, 2015).

B. *Reg'l Int'l Corp., et al. v. Espar, Inc., et al.*, No. 15-cv-1798 (E.D.N.Y.).

Two weeks after Raccoon Valley Plaintiffs filed their complaint, on April 2, 2015, Plaintiff Regional International Corp. filed an indirect purchaser action against Espar. *See* Complaint (ECF No. 1), No. 15-cv-1798 (E.D.N.Y. Apr. 2, 2015). Regional International subsequently amended its Complaint to add Mead's Automotive LLC as a named plaintiff. Am. Compl. (ECF No. 16), *Reg'l Int'l*, No. 15-cv-1798 (E.D.N.Y. May 14, 2015).

IV. Pending Motions

Five motions are pending before the Court.

A. DPP Motions

1. On April 22, 2015, DPP first-filer Triple Cities filed a Motion to appoint its counsel, Hausfeld LLP, as Interim Lead Counsel for the Direct Purchaser Class. *See* Mot. to Appoint Counsel (ECF No. 14), *Triple Cities*, No. 15-cv-1343 (E.D.N.Y. Apr. 22, 2015).

2. On April 23, 2015, National Trucking moved for certification of a direct purchaser class. *See* Motion to Certify Class (ECF No. 6), *Nat'l Trucking*, No. 15-cv-2310 (E.D.N.Y. Apr. 23, 2015).

3. On April 28, National Trucking subsequently moved for consolidation of the DPP actions and for appointment of its counsel, the Roberts Law Firm, P.A., as Interim Lead Counsel for the Direct Purchaser Class. *See* Mot. to Consolidate (ECF No. 11), *Nat'l Trucking*, No. 15-cv-2310 (E.D.N.Y. Apr. 28, 2015).

4. On May 18, Trailer Craft moved for appointment of its counsel, Cera LLP and Klafter Olsen & Lesser LLP, as Interim Lead Counsel and Interim Liaison Counsel, respectively, for the Direct Purchaser Class. *See* Mot. to Appoint Counsel (ECF. No. 9), *Trailer Craft, Inc.* (E.D.N.Y. May 18, 2015).

B. IPP Motions

1. The *Raccoon Valley* Plaintiffs filed a Motion to appoint their counsel, Steven W. Berman, of Hagens Berman Sobol Shapiro LLP, as Interim Lead Counsel for the Indirect Purchaser Class. *See* Mot. to Appoint Counsel (ECF No. 17), *Raccoon Valley*, No. 15-cv-1338 (E.D.N.Y. Apr. 15, 2015).

2. On April 29, 2015, Regional International filed a motion to consolidate all direct and indirect purchaser actions under a single docket and case caption. *See* Mot. to Consolidate (ECF No. 14), *Reg'l Int'l*, No. 15-cv-1798, (E.D.N.Y. Apr. 29, 2015).

The *Raccoon Valley* Plaintiffs filed a response in partial opposition to that motion, supporting consolidation of the indirect purchaser actions and coordination of all actions, but opposing consolidation of the DPP and IPP actions. *See* Resp. to Mot. (ECF. No. 15), *Reg'l Int'l*, No. 15-cv-1798 (E.D.N.Y. May 13, 2015). DPP National Trucking filed a similar response in opposition to Regional International's motion. *See* Resp. to Mot. (ECF. No. 19), *Reg'l Int'l*, No. 15-cv-1798 (E.D.N.Y. May 18, 2015).

3. On May 15, 2015, Regional International and Mead's Automotive LLC filed a motion to appoint their counsel, the Scarpulla Firm and Cooper & Kirkham, as Interim Lead Counsel for the Indirect Purchaser Class. *See* Mot. Re: Appointment of Interim Co-Lead Class Counsel (ECF No. 17), *Reg'l Int'l*, No. 15-cv-1798 (E.D.N.Y. May 15, 2015).

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Respectfully submitted,

/s/ **Michael D. Hausfeld**

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